REMARKS

Claims 1-5, 13-22, and 31-34 are presently pending in the case. Claims 1, 4, and 32 have been amended. Though Applicant disagrees with the rejections of claims 6-12, 23-30, and 35-37, the claims have been cancelled to expedite prosecution. The cancellation is made without prejudice or disclaimer, and Applicant reserves the right to pursue the claims in continuing applications. The amendments are supported by the specification and claims as originally filed.

Reconsideration of the present case in view of the above amendments and the remarks herein is requested.

Drawing Objections

The Drawings were objected to because reference numerals 54 and 60 were not shown in the drawings and because references A, B, Z, and d were not mentioned in the specification. Attached please find a proposed drawing correction showing the reference numerals 54 and 60 added to Figure 8B. "A" and "B" are discussed in the "BRIEF DESCRIPTION OF THE DRAWINGS" brief drawing section for Figures 8A and 8B respectively. Applicant can not locate "Z" in the drawings. "d" has been removed in the proposed drawings.

Claim rejections under 35 USC 112

The Examiner rejected claims 32 and 36 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner objected to the dependency of the claims. Claim 32 has been amended to correct the typographical error. Claim 36 has been cancelled as discussed above.

Claim rejections under 35 USC 102

The Examiner rejected claims 1-4 under 35 USC 102(b) as being anticipated by U.S. Patent 3,967,761 to Melton, Jr. (hereinafter Melton, Jr.). The rejection is traversed.

Melton, Jr. does not anticipate claim 1, for example. To sustain a section 102 rejection, the reference relied upon, must disclose each and every element of the claimed invention. Non-disclosure of a single element of the claim negates anticipation. Claim 1 is to a receptacle for holding fine powder medicament. Melton, Jr. does not disclose a receptacle for holding fine powder medicament. Therefore, Melton, Jr. does not anticipate claim 1 and does not anticipate claims 2-4 which depend from claim 1. Thus, the Examiner is respectfully requested to reconsider the language of claim 1-4 and withdraw the rejection thereunder.

Claim rejections under 35 USC 103(a)

The Examiner rejected claims 13 and 31 under 35 USC 103(a) as being unpatentable over Smith et al in view of Okhi et al and further in view of Melton, Jr. As discussed above, Melton, Jr. does not disclose or suggest the use of powder medicaments. Accordingly, claim 13 and the claims depending therefrom are not rendered unpatentable by the references.

Thus, it is submitted that claims 1-5, 13-22, and 31-34 are in condition for allowance.

Information Disclosure Statement

Applicant is filing under separate cover an information disclosure statement in compliance with MPEP section 609. Indication of consideration of the references provided is requested.

Conclusion

The claims are allowable for the reasons given above. Thus, the Examiner is respectfully requested to reconsider the present rejections and allow the presently pending claims. Should the Examiner have any questions, the Examiner is requested to call the undersigned at the number given below.

Respectfully submitted,

INHALE THERAPEUTIC SYSTEMS

Dated: 10/24/02

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MARKED-UP VERSION OF AMENDMENTS

In the specification:

Please amend the drawings as shown on the attached proposed drawing correction.

In the claims:

Please cancel claims 6-12, 23-30, and 35-37 without prejudice or disclaimer.

Please amend the claims as follows (note that all pending claims have been reproduced for the Examiner's convenience):

1. (amended) A receptacle for holding fine powder medicament [powders], the receptacle comprising:

a receptacle body that defines an enclosed cavity, wherein the receptacle body has a top end and a bottom end, and wherein the bottom end of the receptacle body includes a raised central region that extends upwardly into the cavity.

2. A receptacle as in claim 1, wherein the receptacle body further comprises at least one curved wall that in combination with the raised central region forms a generally semi-toroidal geometry in the cavity.

3. A receptacle as in claim 1, wherein a portion of the bottom end is flat in geometry.

4. (amended) A receptacle as in claim 1, wherein the receptacle body further includes a tab extending from the cavity.

5. A receptacle as in claim 1, further comprising a central hole in the top end and multiple vents, and a cover removably attached to the top end to cover the hole and the vents.

13. A method for aerosolizing a powdered medicament, the method comprising:

providing a receptacle comprising a receptacle body that defines an enclosed cavity, wherein the receptacle body has a top end and a bottom end, and wherein the bottom end of the receptacle body includes a raised central region that extends upwardly into the cavity;

inserting a bottom end of an extraction tube into the cavity such that the bottom end of the extraction tube is aligned with the raised central region and is spaced above the bottom end of the receptacle;

forming vents in the top end of the receptacle about a periphery of the cavity; and

flowing a gas stream through a least a portion of the extraction tube to draw air through the vents and then through the cavity to move the powder in the cavity into the extraction tube where the powder is entrained in the gas stream to form an aerosol.

14. A method as in claim 13, wherein the receptacle includes a curved wall, and wherein the air flows along the wall to remove substantially all powder from the receptacle.

15. A method as in claim 13, wherein the air drawn by the gas stream flows through a flow area, and further comprising reducing the flow area as the air flows through the receptacle and the extraction tube to accelerate the flow of air through the receptacle.

16. A method as in claim 15, wherein the vents form a first flow area, wherein a gap between the extraction tube and the bottom end of the receptacle defines a second flow area, and wherein a cross section of the extraction tube defines a third flow area, and wherein the first flow area is greater than the second flow area, and wherein the second flow area is greater than the third flow area.

17. A method as in claim 16, wherein the ratio of the first flow area to the second flow area and to the third flow area is about 2.0:1.5:1.0.

18. A method as in claim 13, further comprising piercing a hole through the top end of the receptacle and inserting the extraction tube into the cavity through the hole in the top end.

19. A method as in claim 13, further comprising introducing the gas stream into the extraction tube at a location spaced apart from the bottom end of the extraction tube.

20. A method as in claim 13, further comprising forming a hole in the bottom end of the receptacle body, and flowing the gas stream through the hole in the bottom end.

21. A method as in claim 13, further comprising a patient inhaling to produce the gas stream.

22. A method as in claim 13, further comprising releasing an amount of pressurized gas to produce the gas stream.

31. A system for aerosolizing a powdered medicament, the system comprising:

at least one receptacle that comprises a receptacle body that defines an enclosed cavity, wherein the receptacle body has a top end and a bottom end, and wherein the bottom end of the receptacle body includes a raised central region that extends upwardly into the cavity; and

an aerosolizing apparatus having a holder for holding the receptacle, an extraction tube that is insertable into the cavity, a vent forming device to form multiple vents in the top end of the receptacle about a periphery of the cavity.

32. (amended) A system as in claim 31 [32], further comprising a pressure source for producing a high pressure gas stream within at least a portion of the extraction tube to draw air through the vents to move the powder from the cavity and into the extraction tube where the powder is entrained in the high pressure gas stream to form an aerosol.

33. A system as in claim 32, further comprising a flow insert to control spacing of the extraction tube relative to the receptacle.

34. A system as in claim 32, wherein a portion of the bottom end of the receptacle is flat in geometry.

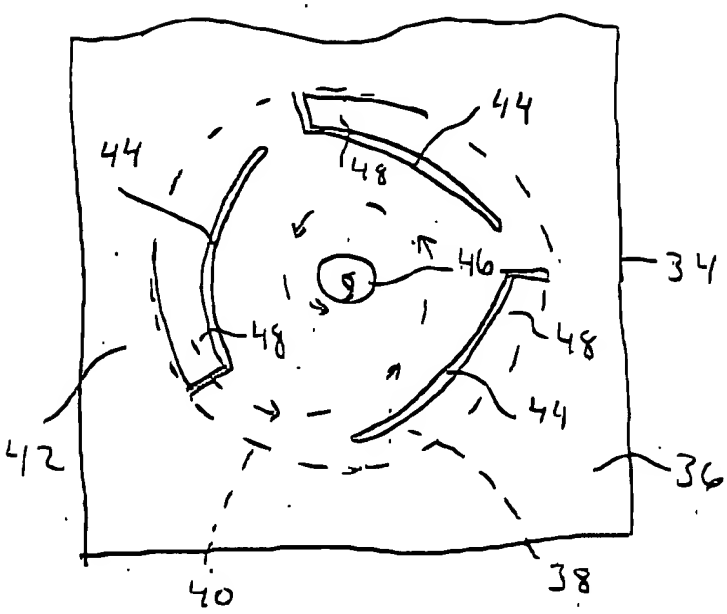

FIG.5

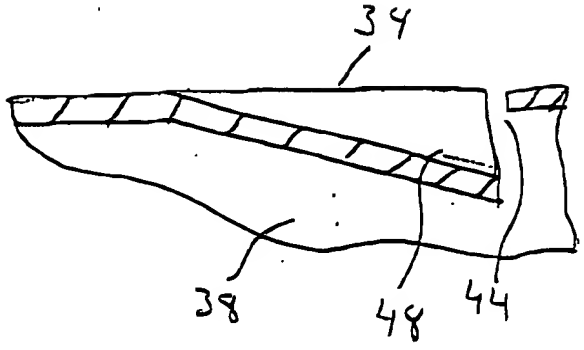

FIG.6

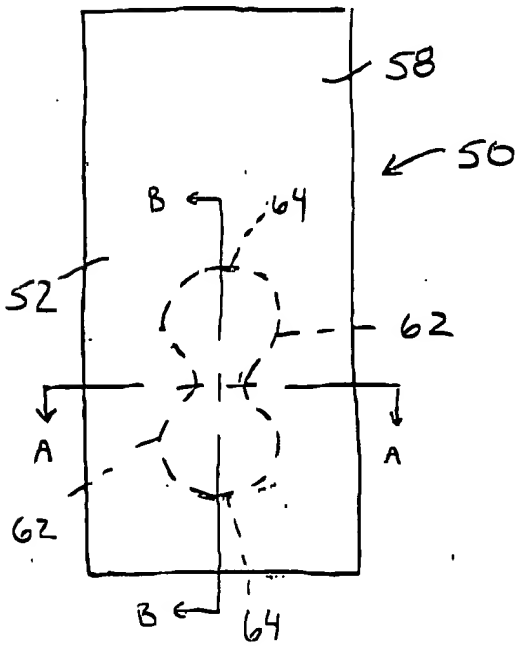

FIG.7

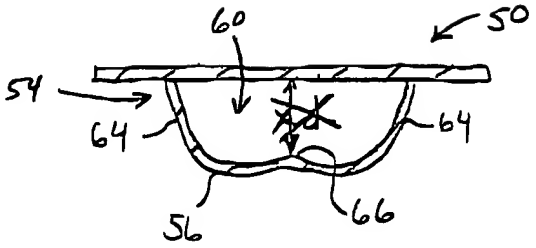

FIG.8B

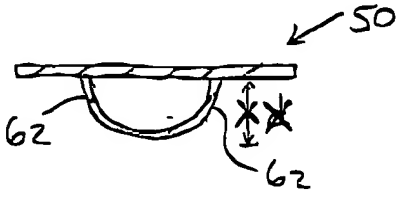

FIG.8A